Minutes

Motor Carrier Safety Advisory Committee Meeting

December 5 - 8, 2011

The Federal Motor Carrier Safety Administration’s (FMCSA) Motor Carrier Safety Advisory Committee (MCSAC) met December 5 – 8, 2011, in Alexandria, VA. In accordance with the provisions of

Public Law 92-463, the meeting was open to the public.

Mr. Larry Minor, the FMCSA Designated Federal Official (DFO), called the meeting to order at 8:30 a.m. on Monday, December 5, 2011.

The following individuals attended the meeting:

**COMMITTEE MEMBERS PRESENT FOR ALL OR PART OF THE MEETING:**

Rob Abbott, Vice President for Safety Policy, American Trucking Associations

LaMont Byrd, Director, Health and Safety Department, International Brotherhood of Teamsters

Paul Claunch, Major, Arkansas Highway Police

Bill Dofflemyer, Captain, Maryland State Police

Scott Hernandez, Lieutenant Colonel, Colorado State Patrol

Thomas Jacques, Master Patrol Officer, Pittsburgh, PA, Police

Henry Jasny, General Counsel, Advocates for Highway and Auto Safety

John Lannen, Executive Director, Truck Safety Coalition

Jane Mathis, Board of Directors, Parents Against Tired Truckers

Janice Mulanix, Assistant Chief of Enforcement and Planning Division, California Highway Patrol

Stephen Owings, President, Road Safe America

David Parker, Senior Legal Counsel, Great West Casualty Company

Robert Petrancosta, Vice President of Safety, Con-Way Freight

Robert “R. C.” Powell, Master Trooper, Virginia State Police

Danny Schnautz, Operations Manager, Clark Freight Lines, Inc.

Todd Spencer, Executive Vice President, Owner-Operator Independent Drivers Association

**MEDICAL REVIEW BOARD (MRB) MEMBERS (joint meeting Dec. 7, 2012):**

Benjamin H. Hoffman, M.D., Global Chief Medical Officer, GE Energy

Carl Soderstrom, M.D., Chief, Medical Advisory Board of the Maryland Motor Vehicle Administration

Brian T. Morris, M.D, Associate Corporate Medical Director, AllOne Health Resources, Inc

Albert J. Osbahr III, M.D., Medical Director, Occupational Health Services, Catawba Valley Medical Center

Gina C. Pervall, M.D., Medical Director, Occupational Medicine Services, John Hopkins University Applied Physics Laboratory Services

**DOT REPRESENTATIVES PRESENT FOR ALL OR PART OF THE MEETING:**

Ray LaHood, Secretary of Transportation

Anne Ferro, Administrator, FMCSA

Albert Alvarez, Office of Analysis, Research and Technology, FMCSA

Barbara Baker, Office of Information Technology, FMCSA

Shashunga Clayton, Office of Communications, FMCSA

Joe DeLorenzo, Director, Office of Enforcement and Program Delivery, FMCSA

Debbie Freund, Vehicle and Roadside Operation Division, FMCSA

Benisse Lester, Chief Medical Officer, FMCSA

Larry Minor, Associate Administrator for Policy, FMCSA

Elaine Papp, Chief, Medical Programs Division, FMCSA

Bill Quade, Associate Administrator for Enforcement, FMCSA

Elizabeth Varghese, Office of Information Technology, FMCSA

Martin Walker, Division Chief, Research, FMCSA

Angela Ward, MRB Liaison, FMCSA

Shannon Watson, Senior Advisor for Policy and MCSAC Liaison, FMCSA

**OTHERS PRESENT FOR ALL OR PART OF THE MEETING:**

M. Scott Adams, Owner Operator

Sarah Alves, ICF International

Jim Angel, PeopleNet

Bill Bennett, Southeastern Freight

Chris Body, Kapsch

Timothy Cama, Transport Topics

Mariann Cameron, Air Products

Alex Capelle, Continental Corp.

Gary Catapano, First Group

Jim Cote, Cote, Co.; John Lindsay Foundation

Cyndi Cramblett, OOIDA

Tom Cuthbertson, Xata Corp.

Charles Czeisler, MD, Harvard Medical School

Robin Doherty, Verigo, Inc.

Jeffrey Durmer, Fusion Health

Rosemary Epp, Webtech Wireless

Fred Franklin, Zonar Systems

Donald Fowler, National School Transportation Association

Richard Gelula, American Sleep Apnea Association

Edward Grandi, American Sleep Apnea Association

Indira Gurubhagavatula, MD, University of Pennsylvania

Mirna Gustave, MacroSys

Clyde Hart, American Bus Association

Don Hall, Cowan Systems

Kathy Hartman, Greyhound

David Hobson, National School Transportation Association

Emad Isaac, Rand McNally

Tony Jewell, Philips

Dana Johnson, Justice 4 Shawn

William Keppen, Keppen Assoc.

Steve Keppler, Executive Director, CVSA

Dave Kraft, Qualcomm

Alan Lankford, Sleep Disorders Center of GA

Karen Levy, Princeton University

Wanda Lindsay, John Lindsay Foundation

Nicholas Lomangino, FAA

Martin Long, Center for Sleep Medicine

John McCormick, ResMed

Earnestine McMillian, Greyhound Lines, Inc.

Doug Morris, OOIDA

Andrew Mouton, Ph.D., Center for Sleep Medicine

Dave Osiecki, American Trucking Associations

Oliver Patton, Heavy Duty Trucking

Julie Perrot, NTSB

Bob Perry, Rolling Strong

Alan Potter, Booz Allen Hamilton

Ken Presley, United Motorcoach Assoc.

Jana Price, NTSB

Gil Raviv, SNAP Diagnostic

Frederick Schaffner, The American Driver

Michael Scott, Webtech Wireless

Marry Anne Scottino, Maryland MVA

Al Smith, Greyhound Lines, Inc.

W.B. Smith, WCNC-TV

Sara Steele, Xata Corp.

Boyd Stephenson, American Trucking Associations

Richard Their, University Services

Stephen Tregear, Ph.D., Manila Consulting Group

Elizabeth Turner, Volpe Center

Stuart Watson, WCNC-TV

Sean Zacot, Cowan Systems

**MCSAC/MRB JOINT MEETING NOTES:**

On Wednesday, December 7, 2012, the MCSAC conducted a joint meeting with FMCSA’s Medical Review Board (MRB). The meeting was webcast live. Secretary of Transportation Ray LaHood and FMCSA Administrator Anne Ferro attended the meeting and made remarks to the committees:

Secretary LaHood thanked the members of both committees for their service. He acknowledged the historic nature of this meeting with many talented people contributing to discussions on transportation safety. Secretary LaHood said that DOT employees get up every day and think about safety and he knows that the members of the Committees do, too, which is appreciated throughout the Department. The Secretary thanked the MCSAC and MRB members for their dedicated service and looks forward to working with all of them to improve safety.

Secretary LaHood mentioned the recently promulgated rule banning cell phones in CMVs and then thanked Anne Ferro for her three years of safety leadership.

Administrator Ferro praised Secretary LaHood for his passion for safety and making it his top priority. The Administrator commended the MCSAC and MRB members for their commitment, dedication, and ability to come together with their expertise and have robust discussions in a civil and productive manner.

Administrator Ferro commended Dave Parker, MCSAC Chairman, and Benjamin Hoffman, MRB Chairman, for their leadership. The Administrator recognized the time and commitment that all members have given to enhance their work and thanked everyone for their service.

**TASKS:**

The Committee discussed the EOBR Implementation subcommittee draft report on Task 11-04 “Electronic On-Board Recorders (EOBR) communications protocols, security, interfaces, and display of hours-of-service data.” The Committee voted unanimously to approve the final report for Task 11-04 and submit it to the Administrator.

The Committee discussed Task 11-02, “Roadside Violation Severity Weighting in the Carrier Safety Measurement System.” The Committee voted unanimously to approve the final report for Task 11-02 and submit it to the Administrator.

On Wednesday, December 7, 2011, the MCSAC met jointly with the MRB to discuss Task 11-05 “Development of Regulatory Guidance on Obstructive Sleep Apnea.” The Committee and Board approved the final Task 11-05 report unanimously.

The MCSAC and MRB established an Obstructive Sleep Apnea subcommittee for further discussion. The subcommittee will meet in January 2012 and its recommendations will be presented to the full MCSAC and MRB in February 2012.

The Committee began discussions on Task 11-06 “Hours-of-Service Requirements for Passenger-Carrying Vehicles.” A subcommittee will be formed to discuss this task further following the February 2012 MCSAC meeting.

**PRESENTATIONS:**

Bill Quade, Associate Administrator for Enforcement, FMCSA presented an update on the Cross Border Trucking Project.

Stephen Tregear, Ph.D., Manila Consulting Group, presented “Obstructive Sleep Apnea and CMV Driver Safety: The Evidence.”

Charles Czeisler, MD, Harvard Medical School, presented “Addressing Obstructive Sleep Apnea in CMV Drivers.”

Indira Gurubhagavatula, MD, University of Pennsylvania Medical Center, presented “Screening for Obstructive Sleep Apnea in CMV Drivers.”

Andrew Mouton, Ph.D., The Center for Sleep Medicine, presented “The Cardinal Manifestations of Sleep Disorders.”

Martin Walker, Ph.D., Chief, Research and Information Technology Division, FMCSA presented “Motorcoach Driver Research.”

**PUBLIC COMMENT PERIODS:**

***Frederick Schaffner, The American Driver:*** Mr. Schaffner stated that he believes excluding Mexican Domicile trucks in the Unified Carrier Registration process (UCR) is a mistake. He believes that if the Agency is asking American trucking companies and drivers to surrender their freedoms and liberties for safety and for the Agency to identify bad carriers, the Mexican carriers and drivers should be held to the same standard otherwise bad actors will crop up in Mexico.

Regarding the EOBR issue, he pointed out that the EOBR rule was vacated because the Agency did not address a specific issue (driver harassment) and that to continue discussing the rule is contentious and implementing it would be contempt. Mr. Schaffner’s suggestion to the Committee is to send the task back to the Agency and ask for a task related to a rule that is valid so they can give good, solid advice.

It is Mr. Schaffner’s belief that the EOBR rule is not creating safety but that it’s instead creating aggressive drivers because the device is seen as a timer. He also pointed out that if an EOBR has an equipment failure, a driver has to recreate the past 8 days in paper log form and challenged anyone in the room to be able to recreate the past 8 days in 15 minute increments. Mr. Schaffner said that EOBRs can be useful but that a rule must be implemented properly.

***Scott Adams, Owner-Operator:*** Mr. Adams discussed an issue he sees with EOBRs. He stated that if there is an equipment failure of some kind and the EOBR can’t print out the information for an officer, the backup process is to re-create a paper log and submit it to the officer. If the paper logs are o.k. in that situation, Mr. Adams wondered why drivers can’t simply stick with doing paper logs all of the time.

He also discussed the dangers pulling out of many of the weigh stations and having to escalate uphill, a carrier could easily be struck from behind by another motorist. He believes the motor carrier driver will be treated like the criminal in this situation –logs will be reviewed, drug test taken, etc.

Mr. Adams also believes that the EOBRs cause aggressive drivers because it’s seen as a timer to get the driver moving faster to their destination and that sometimes there are not safe places to pull over for their breaks.

Mr. Adams also discussed the issue of chameleon carriers and suggested implementing something similarly used with Owner-Operators where they have to submit their license number which follows them everywhere; there is no “corporate veil” to hide who is running the company.

***Donald Fowler, National School Transportation Association (NSTA):*** Mr. Fowler voiced his concerns that the Committee lumped school bus drivers into the same category as all other motor carrier drivers. He explained that it is effectively a different industry due to the nature of the driving hours.

Mr. Fowler also explained his own situation with Sleep Apnea testing/diagnosis. He explained that he was diagnosed with Sleep Apnea (it cost his company approximately $1500) and had the surgery; he found out later that he didn’t have Sleep Apnea but a sinus infection. Now he has to take the test again to get it off of his record which will cost another $1500. Mr. Fowler believes this testing would cause a burden on people in the rural cities and towns because they will have to travel to a large city for screening and procedures.

***Shaun Kildare, Advocates for Highway and Auto Safety:*** Explained that they have done studies regarding Sleep Apnea and skipped screenings between 30 – 35 BMI but that physicians should be instructed to screen those with a BMI of 35 and over.

***Dr. Alan Lankford, Chief Science Officer at Sleep Disorders Center of GA:*** Dr. Lankford discussed the standards that are used at JB Hunt. They use a BMI of 30 and above for screening; they do portable monitoring using level 3 reporters ordered by physicians and use a chain of custody with patent strips. JB Hunt is doing approximately 85% portable monitoring. The company conducts about 10% – 15% of driving monitoring in labs. Dr. Lankford also mentioned that it’s important to find out what health insurance is going to look into and decide as far as coverage is concerned.

***Bill Bennett, Southeastern Freight:*** Mr. Bennett’s company has a program for screening their drivers and wanted to point out that the process is not inexpensive and costs about $1500.

Mr. Bennett also pointed out his concerns with putting a driver Out-of-Service for 30 days due to a sleep apnea diagnosis as that means the driver will not get paid for 30 days and may cause him to seek another doctor for a different diagnosis. Mr. Bennett suggested providing medical attention to drivers with indications of sleep apnea and promoting wellness among drivers to combat sleep apnea. Mr. Bennett believes sleep apnea should be a proactive program to prevent fatigue related crashes and increase safety for the public.

***John Cote, John Lindsay Foundation:*** Mr. Cote discussed the crash that took John Lindsay’s life. In May 2010, John and Wanda Lindsay were in traffic and came to a stop. They were hit from behind by a truck travelling at 65 miles per hour (via speed control device). The driver said that he was distracted for a moment, turned back to the traffic and noticed it was at a standstill and could not stop in time. The family learned through litigation that this driver had been fired from previous jobs for refusing a sleep apnea test.

***Wanda Lindsay, John Lindsay foundation:*** Ms. Lindsay survived the crash that took her husband’s life (John Lindsay) in May 2010. Ms. Lindsay stated that she has heard people say that if our nation’s roads are as bad as some think, they would look like a war zone; she explained that if you had seen the accident where her husband was killed it did look like a war zone. When Ms. Lindsay and her family found out the reason for the crash, they formed the John Lindsay Foundation to educate the public on the issue. She mentioned that she never knew how serious sleep apnea was before this crash and she doesn’t believe the public understands the seriousness either. She doesn’t believe this is a political issue and doesn’t understand why the trucking companies don’t want this to happen.

Ms. Lindsay asked the Committee to help her organization affect change and would love to see a BMI of 25 or higher to be required screening but she’ll take 35, “it’s a start”. Ms. Lindsay offered assistance if there is anything she and her organization can do to help.

***Edward Grandi, American Sleep Apnea Association (ASAA):*** Mr. Grandi applauds MCSAC and MRB in tackling the wording guidelines for medical examiners so tragedies like Ms. Lindsay’s can be prevented. Mr. Grandi believes this is a start, especially for people who have severe sleep apnea. Once the diagnosis is made, he indicated that the person is on a long journey for the rest of their lives. He stressed that he’s not discouraging the Committees in their task but asked them to keep in mind that there will be drivers who will struggle with the treatment and that provisions need to be made for a safe place for drivers to disclose that they have sleep apnea and to help them continue in their recovery and treatment.

***Jim Angel, PeopleNet:*** Mr. Angel indicated that he is speaking on behalf of himself and not his organization.

Mr. Angel pointed out that we’re in an incredible regulatory environment, the biggest being the change to Hours of Service and the next would be the Sleep Apnea discussions. He pointed out that the rules being made and discussed have the potential to change lives forever.

Mr. Angel explained that everything that Americans do is touched by a truck at some point. He believes that there are parts of this regulation that will seriously impact the workforce and that there is a need to promote truck driving as a job. He believes that there is a need to promote programs to put healthier drivers on the road and to promote the quality of the job. Hours of Service, Sleep Apnea, and EOBRs all will have a significant impact on the overall capacity in the industry.

***David Hobson, National School Transportation Association (NSTA):*** Mr. Hobson explained that things that happen at FMCSA directly affect his organization. Mr. Hobson offered NSTA to the Passenger Carrier HOS subcommittee as a resource to help guide with any school bus issues or questions that they have while discussing this task.

***Jim Angel, PeopleNet*** –Mr. Angel pointed out that Canada went through a similar situation of comparing Hours of Service for trucks and buses and it was agreed to place the same regulations on both. He suggested the Committee reach out to those who conducted the study to get an idea of the research and the results of their regulations, i.e. whether the merge has been successful.

***Jana Price, National Transportation Safety Board (NTSB):*** Ms. Price stated that she is not speaking on behalf of NTSB but wanted to offer some knowledge to the Committee. She referred to a question asked during the discussion about what FAA does regarding pilots and HOS. In 2010 the FAA put out an NPRM for revised duty hours (Part 121) related to passengers-carrying large operations and some large cargo operations and they have equal HOS for both groups. At a Congressional testimony that Ms. Price attended, Dr. Belenky spoke about the regulation and explained the premise as “humans are humans” and having different HOS regulations for the different groups did not make sense.

***Al Smith, Greyhound:*** Mr. Smith suggested the Committee review a final report written in December 1999 by Phil Hanley (FMCSA) regarding the motorcoach industry and fatigue factors.

He also said that Dr. Rosekind from NTSB did a study for Greyhound in 2003 (before he joined NTSB) that caused them to change their practices; Mr. Smith will make inquiries to find out if he can provide a copy to the Committee as a resource.

Mr. Smith also pointed out that the long haul business and charter business are distinctly different entities and it would be difficult to put them in the same bucket for Hours of Service.

He also explained that statistically, fatalities have gone up in the past few years but so have the numbers of curbside carriers who are not regulated well; he suggested that if you pull out the curbside carriers and chameleon carriers you’d probably see a drop in the fatalities.

**ADJOURNMENT:** The meeting was adjourned at 1:00 pm on Thursday, December 8, 2011.

We hereby certify that, to the best of our knowledge, the foregoing minutes are accurate and complete.

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David R. Parker

Chairman

Motor Carrier Safety Advisory Committee

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Larry W. Minor

Designated Federal Official

Motor Carrier Safety Advisory Committee